

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Southern Division)

THONY ANYIAM  
5314 Annapolis Road  
Bladensburg, Maryland 20710,

Plaintiff,

v.

INDYMAC MORTGAGE SERVICES  
888 East Walnut Street  
Pasadena, California 91101

Defendant.

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Case No. \_\_\_\_\_

Removed from the District Court  
of Prince George's County, Maryland  
Case No. 050200371112010

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**NOTICE OF REMOVAL**

Defendant OneWest Bank, FSB ("Defendant" or "OneWest"), incorrectly identified in Plaintiff's Complaint as "IndyMac Mortgage Services,"<sup>1</sup> by its undersigned attorneys, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, files this notice of removal of this civil action from the District Court for Prince George's County, Maryland to the United States District Court for the District of Maryland (Southern Division). This Court has jurisdiction based on federal question jurisdiction, 28 U.S.C. § 1331, and supplemental jurisdiction pursuant to 28 U.S.C. § 1367. In further support of this Notice of Removal, Defendant OneWest states:

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<sup>1</sup> In the Complaint filed with the District Court of Maryland for Prince George's County, Plaintiff identifies the defendant as IndyMac Mortgage Services. IndyMac Mortgage Services is a division of OneWest and is not a separate legal entity capable of being sued. To the extent that Plaintiff asserts a claim against IndyMac Mortgage Services, OneWest is the proper Defendant in this matter.

### **I. Plaintiff's Complaint**

1. On October 18, 2010, Plaintiff Thony Anyiam ("Plaintiff" or "Anyiam") filed his Complaint in State Court against OneWest in the District Court of Maryland for Prince George's County. The State Court case is styled: *Thony Anyiam v. IndyMac Mortgage Services*, Case No. 050200371112010 (the "State Court Action"). A copy of the Complaint filed in the State Court Action is attached as **Exhibit A**.

2. This Notice of Removal is timely filed. OneWest was first sent the Complaint and the corresponding summons on November 2, 2010 by certified mail in Kalamazoo, Michigan.<sup>2</sup> This Notice of Removal is filed within thirty (30) days of receipt. A copy of the Summons received by OneWest is attached as **Exhibit B**.

3. In the Complaint, Plaintiff, who is appearing *pro se*, alleges that there are inaccuracies on his credit report and that OneWest, which services Plaintiff's secured residential mortgage loan, has failed to correct the alleged inaccuracies, which has negatively affected his credit, and that he has previously requested that OneWest correct the issue, but OneWest has not done so. *See generally* Compl. For these allegations, Plaintiff seeks \$4,500 in damages, plus court costs.

4. Plaintiff has been and remains a citizen and resident of Maryland, and owns real property at 5314 Annapolis Road, Bladensburg, Maryland, 20710. *See* Compl. at 1.

5. Since the filing of the Complaint, OneWest has been and continues to be a federal savings bank whose main office is located in California, as listed in its organization certificate.

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<sup>2</sup> Plaintiff did not serve properly OneWest according to Maryland Rule 2-124. Instead, Plaintiff sent the Complaint to Laura Reginek, the addressee identified on the Complaint and summons, at a Kalamazoo, Michigan address. Ms. Reginek is not a "resident agent, president, secretary, or treasurer" of OneWest, therefore, service of process did not meet the requirements of Maryland Rule 2-124.

## II. Removal Based on Federal Question Jurisdiction

7. This Court has original jurisdiction over this action under 28 U.S.C. § 1331, which provides: “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

8. Pursuant to 28 U.S.C. § 1441(b), “[a]ny civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties.” Specifically, this Court has original jurisdiction of this action because the Plaintiff’s allegations arise under a federal statute, the Fair Credit Reporting Act.<sup>3</sup>

9. While not invoking the statute by name, the allegations presented by Plaintiff pertaining to his credit report attempt to assert a claim under the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et. seq.*, specifically a failure by OneWest to correct inaccurate information provided to a consumer credit reporting agency pursuant to 15 U.S.C. § 1681s-2. *See White v. Ameritel Corp.*, No. DKC 10-0929, 2010 U.S. Dist. LEXIS 93616, at \*10-11 (D. Md. Sept. 9, 2010) (holding that removal was proper and denying motion to remand because plaintiff clearly stated a claim for retaliation and wrongful termination under Title VII, even though he did not specifically invoke that statute by name).

10. To the extent Plaintiff asserts any additional claims in the Complaint, the Court has supplemental jurisdiction over these claims pursuant to 28 U.S.C. § 1367(a).

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<sup>3</sup> Further, the parties have diversity of citizenship. However, at this time, the amount in controversy does not exceed \$75,000. Defendant reserves the right to amend this Notice should Plaintiff later assert an amount in controversy exceeding \$75,000.

### III. Removal Procedures

11. Removal of this case is proper under 28 U.S.C. § 1441(a), which provides in pertinent part, that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

12. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1441(a). Defendant seeks to remove this case to the District of Maryland, Southern Division. The District Court of Prince George’s County, Maryland is located within this District and cases arising in Prince George’s County, Maryland are properly assigned to the Southern Division of this Court. *See* 28 U.S.C. § 100(1).

13. OneWest is the only defendant in this case, therefore, no other party need consent to this removal.

14. Pursuant to 28 U.S.C. § 1446(a), all copies of all process, pleadings, and orders served upon Defendants in the State Court Action are attached hereto as Exhibits A and B.

15. Written notice of the filing of this Notice of Removal will be served upon Plaintiff.

16. In accordance with 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal (without exhibits) is being filed concurrently with the Clerk of the District Court for Prince George’s County, Maryland and served upon all parties of record. A copy of the written notice of the Notice of Removal is attached hereto as **Exhibit C**.

17. In filing this Notice of Removal, Defendant does not waive, and specifically reserves, any and all objections as to service, personal jurisdiction, defenses, exception, rights, and motions.

#### IV. Conclusion

WHEREFORE, Defendant OneWest Bank, FSB, respectfully requests the above-captioned action now pending in the District Court for Prince George's County, Maryland, be removed to the United States District Court for the District of Maryland, Southern Division, and that said United States District Court assume jurisdiction of this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

Dated this 2nd day of December, 2010.

Respectfully submitted,



Amy Miller (Md. Fed. Bar No. 17575)

Jessica D. Fegan (Md. Fed. Bar No. 28660)

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***Counsel for Defendant OneWest Bank, FSB***

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 2nd day of December, 2010, a copy of the foregoing  
Notice of Removal was sent by first class mail, postage prepaid, to the following:

Thony Anyiam  
5314 Annapolis Road  
Bladensburg, Maryland 20710

***Plaintiff***

  
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Amy Miller